

application to those labels, without prejudice to the rights of the claimant in the label presently used by it for Life Savers having an artificial wild cherry flavor. Furthermore, this proceeding is, of course, without prejudice to the right of the Government to challenge, should it see fit to do so, in a separate, new proceeding, the labels presently used by claimant to determine whether or not such new labels are in full compliance with the requirements of the statute. Upon the stipulation of counsel for claimant made without prejudice and by way of compromise only for the purpose of disposing of this proceeding, claimant concedes and upon its concessions I find the seized goods to be misbranded in the respects alleged in the libel."

On the same date, the court entered a decree condemning the product and ordering its delivery to charitable organizations.

DAIRY PRODUCTS

CHEESE

14770. Action to enjoin and restrain the interstate shipment of cheese. U. S. v. John J. Alder (Minnesota Cave Cheese Co.). Temporary injunction granted. Injunction proceedings subsequently dismissed. (Inj. 171.)

COMPLAINT FILED: August 2, 1947, District of Minnesota, against John J. Alder, doing business as the Minnesota Cave Cheese Co., Carver, Minn.

NATURE OF CHARGE: That at the time of the filing of the complaint, the defendant was, and for several years had been, introducing and delivering for introduction into interstate commerce, cheese which was adulterated as follows: Section 402 (a) (3), the cheese consisted in part of filthy substances; and, Section 402 (a) (4), it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the defendant's factory where the cheese had been, and was being, prepared arose out of the presence of insects, rodents, rodent excreta, and other filthy and unwholesome substances in and around places in the factory where the cheese had been, and was being, prepared and stored, and in and around raw materials and equipment used for preparing the cheese; that the insanitary conditions arose also out of the use of filthy milk in manufacturing the cheese; and that the defendant continued to ship in interstate commerce adulterated cheese and would continue to ship such cheese in interstate commerce unless enjoined from so doing.

PRAYER OF COMPLAINT: That the defendant be perpetually enjoined from commission of the acts complained of; and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: On October 10, 1947, the defendant having consented to the entry of a temporary injunction on the condition that it be without prejudice to the defendant's claim with respect to a permanent injunction, an order was entered temporarily enjoining the defendant from introducing or delivering for introduction into interstate commerce, cheese which was adulterated, as alleged in the complaint. On April 29, 1949, the defendant having, in the meantime, sold his business and being no longer engaged in the manufacture of cheese products, an order was entered for the dismissal of the injunction proceedings.

4771. Action to enjoin and restrain the interstate shipment of cheese. U. S. v. Cudahy Packing Co. Tried to the court. Verdict for the defendant; case dismissed. (Inj. No. 205.)

COMPLAINT FILED: January 24, 1949, Eastern District of Oklahoma, against the Cudahy Packing Co., Ada, Okla.

NATURE OF CHARGE: That the defendant had been and was at the time shipping in interstate commerce, cheese which was adulterated as follows: Section 402 (a) (3), it consisted in part of filthy substances such as insect fragments, rodent hair fragments, manure fragments, and feather barbules; and, Section 402 (a) (4), it had been prepared and was being prepared under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions in the defendant's plant at Ada, Okla., consisted of the presence of insects and rodents in and around the equipment used for manufacturing, preparing, and packing the cheese, and in other places in the plant where the cheese was prepared or held; and that the defendant continued to ship in interstate commerce, adulterated cheese and would continue to ship such cheese in interstate commerce unless enjoined from so doing.

PRAYER OF COMPLAINT: That the defendant be perpetually enjoined from commission of the acts complained of, and that a preliminary injunction be granted during the pendency of the action.

DISPOSITION: The defendant filed an answer denying that any cheese had been shipped in interstate commerce since August 1, 1948, which was adulterated as alleged in the complaint, and it requested that the action be dismissed. The case came on for trial before the court on May 13, 1949, at which time the court heard the evidence. Oral argument was had in the matter on May 20, 1949, and on May 23, 1949, the court handed down its findings of fact and conclusions of law, to the effect that there were no present violations of the Act by the defendant and that there were no reasonable grounds to anticipate any future violation of the Act by the defendant. In accordance therewith, a decree was entered on May 24, 1949, denying the Government's application for injunction and ordering the case dismissed.

14772. Adulteration of creamed cottage cheese. U. S. v. The Grantsville Creamery, Inc. Plea of guilty. Fine of \$250 and costs. (F. D. C. No. 26306. Sample Nos. 2228-K, 2229-K, 2231-K to 2233-K, incl., 2251-K, 8899-K.)

INFORMATION FILED: January 10, 1949, District of Maryland, against the Grantsville Creamery, Inc., Grantsville, Md.

ALLEGED SHIPMENT: On or about March 29 and May 17 and 24, 1948, from the State of Maryland into the States of West Virginia and New York.

LABEL, IN PART: "Armour Cloverbloom Pasteurized Creamed Cottage Cheese Armour Creameries-Distributors-General Office Chicago, Ill." or "Pasteurized Popcorn Style Cheese The Grantsville Creamery, Inc. Grantsville, Md."

NATURE OF CHARGE: Adulteration, Section 402 (b) (2), a product which contained less than 4 percent by weight of milk fat had been substituted in part for creamed cottage cheese; and, Section 403 (g) (1), the product fell below the standard of identity for creamed cottage cheese since it contained less than 4 percent by weight of milk fat.

DISPOSITION: April 29, 1949. A plea of guilty having been entered, the defendant was fined \$250, together with costs.